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House BILL NO. 308

INTRODUCED BY *Enoch Larson*
Keenan Harding Galvin



A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER DISTRICTS; PROVIDING FOR RATES BASED UPON THE AVAILABILITY OF FACILITIES; PROVIDING FOR TERMINATION OF SERVICES AND COLLECTION OF DELINQUENT CHARGES AS A TAX LIEN UPON PROPERTY OR BY FILING SUIT IN ANY COURT WITH JURISDICTION; AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS; CLARIFYING THE AUTHORITY TO ISSUE REFUNDING BONDS; AMENDING SECTIONS 7-13-2218, 7-13-2301, 7-13-2321, AND 7-13-2324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-13-2218, MCA, is amended to read:

"7-13-2218. District powers related to water and sewer projects. Any district incorporated as provided in this part may:

(1) construct, purchase, lease, or otherwise acquire and operate and maintain water rights, waterworks, sanitary sewerworks, storm sewerworks, canals, conduits, reservoirs, lands, and rights useful or necessary to store, conserve, supply, produce, convey, or drain water or sewage for purposes beneficial to the district. Beneficial purposes include but are not limited to flood prevention, flood control, irrigation, drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution abatement, livestock water supply, and other similar purposes.

(2) if the incorporators of the district are members of a private, nonprofit water association that was formed under the laws of this state, acquire by eminent domain from that water association any type of property referred to in this section;

(3) store water for the benefit of the district; conserve water for future use; appropriate, acquire, and conserve water and water rights for the purposes of the district; commence, maintain, intervene in, and compromise, in the name of the district, and assume the costs of any action or proceeding involving or affecting the ownership or use of waters, water rights, or sewer rights within the district used or useful for any purpose of the district or a benefit to any land situated in the district;

1 (4) commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent
 2 interference with or diminution of the natural flow of any stream or natural subterranean supply of waters
 3 used or useful for any purpose of the district or a common benefit to the lands within the district or its
 4 inhabitants;

5 (5) commence, maintain, and defend actions and proceedings to prevent any interference with the
 6 waters or rights referred to in this section as may endanger the inhabitants or lands of the district;

7 (6) lease from any person, firm, or public or private corporation, with the privilege of purchase or
 8 otherwise, existing water rights, waterworks, sewerworks, canals, or reservoir systems; and carry on and
 9 maintain them;

10 (7) sell water or the use of water for household or domestic or other similar purposes or sell sewer
 11 service and, whenever there is a surplus of water or sewerworks capacity, sell or otherwise dispose of the
 12 water or sewerworks capacity to municipalities or towns or to consumers located within or outside the
 13 boundaries of the district;

14 (8) retain the services of architects and engineers for designing, preparing a feasibility study for,
 15 and drawing plans and specifications of a water or sewer system for the district, with the cost of these
 16 services apportioned and assigned against properties in the district in accordance with 7-13-2301; and

17 (9) establish, by ordinance or resolution, rules and regulations for the operation, maintenance, use,
 18 and availability of any of its systems or improvements, including but not limited to connection procedures,
 19 service termination, and payment of rates and charges, including penalties and interest charges for
 20 delinquent accounts."

21
 22 **Section 2.** Section 7-13-2301, MCA, is amended to read:

23 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of
 24 directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer
 25 charges and the charges for the sale and distribution of water to all users.

26 (2) (a) The board, in the furnishing of water, sewer service, other services, and facilities, shall
 27 review, at least once every 2 years, and from time to time fix such the rate, fee, toll, rent, or other charge
 28 for the services, facilities, and benefits directly or indirectly afforded by the facilities, taking into account
 29 services provided and benefits received, that as will pay the operating expenses of the district, provide for
 30 repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and so

1 ~~far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may~~
2 ~~become due~~ be sufficient in each year to provide income and revenue adequate for:

3 (i) the payment of the reasonable expense of operation and maintenance of the facilities;

4 (ii) administration of the district;

5 (iii) the payment of principal and interest on any bonded or other indebtedness of the district; and

6 (iv) the establishment or maintenance of any required reserves, including reserves needed for
7 expenditures for depreciation and replacement of facilities, as may be determined necessary from time to
8 time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the
9 district.

10 (b) In addition to charges for the use of facilities of the district, the board may, if the facilities have
11 been acquired, constructed, or improved by the use of bonds authorized in accordance with 7-13-2323
12 through 7-13-2325, establish and impose charges, including maintenance charges to main service lines,
13 for the availability of facilities to properties benefited by the facilities.

14 (3) A person or entity may not use any facility without paying the rate established for the facility.
15 In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to
16 the property and may require that all delinquent charges, interest, penalties, and deposits be paid before
17 restoration of the service.

18 (4) (a) If a charge for services incurred in a fiscal year is not paid by the end of the fiscal year, the
19 general manager shall, by July 15 of the succeeding fiscal year, give notice to the owners of the property
20 to which the service was provided. The notice must be in writing and:

21 (i) must specify the charges owed, including any interest and penalty;

22 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
23 the property;

24 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
25 the amount due; and

26 (iv) may be served on the owner personally or by letter addressed to the post-office address of the
27 owner as recorded in the county assessor's office.

28 (b) On September 1 of each year, the general manager shall certify and file with the county
29 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list
30 must include the amount of each arrearage, including interest and penalty. The county assessor shall

1 assess the amount owed as a tax against each lot or parcel with an arrearage.

2 (5) In addition to collecting assessments in the same manner as a tax, a district may bring suit in
3 any court of competent jurisdiction to collect amounts due as a debt owed to the district.

4 ~~(3)(6)~~ Notwithstanding any other section of ~~this part or~~ part 22 or this part or any limitation
5 imposed ~~therein and in part 22 or this part~~, when the board has applied for and received from the federal
6 government any money for the construction, operation, and maintenance of ~~treatment services and works~~
7 facilities, the board may adopt a system of charges and rates to require that each recipient of ~~treatment~~
8 ~~works~~ facility services pays its proportionate share of the costs of operation, maintenance, and replacement
9 and ~~to~~ may require industrial users of ~~treatment works~~ facilities to pay the portion of the cost of
10 construction of the ~~treatment works which~~ facilities that is allocable to the treatment of that industrial
11 user's wastes."

12
13 **Section 3.** Section 7-13-2321, MCA, is amended to read:

14 **"7-13-2321. Procedure to incur bonded indebtedness.** Whenever the board of directors ~~deems~~
15 considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund
16 bonded indebtedness as provided for in [section 6], it shall by a resolution ~~so declare and~~ state the purpose
17 for ~~which~~ the proposed debt is ~~to be incurred~~, the land within the district to be benefited ~~thereby~~, the
18 amount of debt to be incurred, the maximum term for the proposed bonds ~~proposed to be issued shall run~~
19 before maturity, and the proposition to be submitted to the electors."

20
21 **Section 4.** Section 7-13-2324, MCA, is amended to read:

22 **"7-13-2324. Notice of election on incurring bonded indebtedness.** (1) The board of directors shall
23 give notice of the holding of the election. The notice ~~shall contain the resolution adopted by the board of~~
24 ~~directors of the district, must:~~

25 (a) state the date of the election;

26 (b) state the hours the polls will be open;

27 (c) describe the boundaries of voting precincts, which ~~shall include~~ may include only the lands to
28 be benefited as stated in the resolution, ~~and the location of polling places;~~

29 (d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term
30 of years for repayment of the bonds;

1 (e) reference the resolution authorizing the election and state that it is available for public
 2 inspection; and

3 (f) state any other information that the board considers proper.

4 (2) The notice ~~shall~~ must be published as provided in 13-1-108."

6 **NEW SECTION. Section 5. Determination of benefit.** (1) Under part 22 or this part, the county
 7 commissioners or board of directors of a district may, on the basis of whether the property is benefited by
 8 the facilities, determine whether or not to include property in a district, to charge property for the use or
 9 availability of services, or to charge property for a particular bonded indebtedness.

10 (2) In determining if a property is benefited, the county commissioners or board of directors shall
 11 consider the following factors:

12 (a) whether the property is currently served by the facilities;

13 (b) whether the property would be served by the facilities if the owner elected to connect to the
 14 facilities;

15 (c) whether additional facilities are required to allow the property to connect to the facilities;

16 (d) whether additional facilities have been authorized or whether plans to authorize the additional
 17 facilities have been made and whether the additional facilities would be available within the next 3 years;

18 (e) the current use of the property;

19 (f) the permitted uses of the property under applicable zoning and land use regulations;

20 (g) any estimated increase in the market value of the property as a result of the facilities;

21 (h) the character and location of the district;

22 (i) the character and location of the property;

23 (j) whether the property is served by other facilities of the district or other public improvements;

24 and

25 (k) any other relevant factors.

27 **NEW SECTION. Section 6. Issuance of general obligation bonds.** (1) In addition to the powers
 28 granted to a district in this part to finance facilities and improvements, a district may issue general
 29 obligation bonds for a term of up to 30 years to:

30 (a) provide funds to pay part or all of the cost of acquisition, construction, or improvement of

1 facilities; or

2 (b) refund any bonds issued for the acquisition, construction, or improvement of facilities.

3 (2) General obligation bonds issued pursuant to this section must be authorized, sold, and issued,
4 with provisions for their payment, in the manner and subject to the conditions prescribed for bonds of
5 school districts in Title 20, chapter 9, part 4, except to the extent that those conditions conflict with the
6 express provisions of part 22 or this part.

7 (3) Nothing in this section prohibits a district from imposing rates or other charges for the use or
8 availability of facilities that have been financed in whole or part by general obligation bonds under this
9 section if the revenue from the rates or charges is used to abate taxes that have been levied to pay the
10 principal or interest on the general obligation bonds or is used to pay the principal or interest on other
11 bonded indebtedness of the district.

12

13 **NEW SECTION. Section 7. Issuance of refunding bonds without election.** (1) (a) District refunding
14 bonds, issued to provide money to refund outstanding bonded indebtedness, may be issued without a vote
15 of the electorate. In order to issue refunding bonds, the board of directors shall adopt a resolution setting
16 forth the facts regarding the outstanding bonds that are to be redeemed, the reasons for issuing the
17 refunding bonds, and the terms and details of the refunding bond issue.

18 (b) After adopting a resolution, the board of directors may sell the bonds at times and in a manner
19 considered to be in the public interest.

20 (2) (a) Refunding bonds may be issued prior to the maturity or redemption date of the outstanding
21 bonds they are to refund. The proceeds of the refunding bonds, less any accrued interest or premium
22 received upon the sale of the refunding bonds or amounts to be used for the cost of issuance or
23 establishing reserves for the refunding bonds, must be deposited with other funds appropriated for payment
24 of the outstanding bonds in escrow with a suitable banking institution in or out of the state.

25 (b) Deposited funds must be invested in securities that are general obligations of the United States
26 or in securities for which the principal and interest are guaranteed by the United States. The securities
27 must be payable on the dates required and bear interest at a rate sufficient, with any cash retained in the
28 escrow account, to pay, when due, accrued interest on each refunded bond until its maturity or redemption
29 date if called for redemption. The securities must also be sufficient to pay the principal of the bond at
30 maturity or upon the redemption date and to pay any redemption premium.

1 (c) The escrow account must be irrevocably appropriated to the payment of principal, interest, and
2 redemption premium, if any, of the refunded bonds.

3 (d) A district may pay for reasonable costs of issuing the refunding bonds and maintaining the
4 escrow account. Alternatively, a district may issue crossover refunding bonds as provided in Title 17,
5 chapter 5, part 21.

6
7 **NEW SECTION. Section 8. Codification instruction.** [Sections 5 through 7] are intended to be
8 codified as an integral part of Title 7, chapter 13, part 23, and the provisions of Title 7, chapter 13, part
9 23, apply to [sections 5 through 7].

10
11 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

12 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0308, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

This bill revises laws governing county water and sewer districts. These districts are established for the purposes of owning and operating water supply systems and wastewater treatment systems. The proposed legislation clarifies the purposes for which districts can assess rates and charges and defines the authority of districts to establish rules and regulations governing the operation of the system. The bill also gives district boards additional powers to collect charges in the event of non-payment. The bill will, in addition to existing financing mechanisms, allow districts to finance improvements through issuance of general obligation bonds. This legislation will also allow districts to refund outstanding bonded indebtedness without a vote of the electorate.

ASSUMPTIONS:

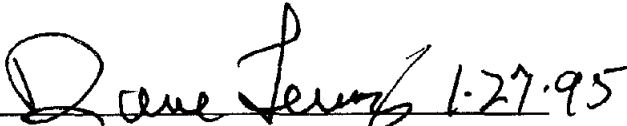
1. The Executive Budget present law base serves as the starting point from which to calculate any fiscal impact due to this proposed legislation.
2. Department of Health and Environmental Sciences (DHES) staff resources will not be affected by the implementation of these new requirements or assignment of authority governing county water and sewer districts.
3. There may be some reduction in the risk to the state where state sponsored loans have been made to districts to finance system improvements. However, no means exists to calculate what the possible fiscal impact from this would be.

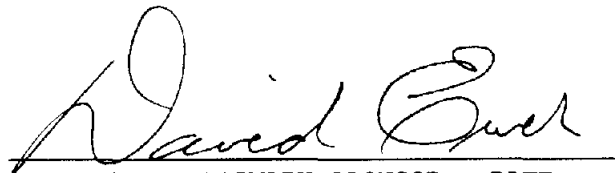
FISCAL IMPACT:

None.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES

This bill should have a beneficial effect on local revenues by allowing county water and sewer districts additional authority to insure collection of revenues needed for facility operation and debt payments. It will also give a district more flexibility in funding system improvements and could lower the cost of borrowing money by reducing risk.


DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


DAVID EWER, PRIMARY SPONSOR DATE

1 HOUSE BILL NO. 308

2 INTRODUCED BY EWER, LARSON, PIPINICH, KEENAN, HARDING, GALVIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER
5 DISTRICTS; PROVIDING FOR RATES BASED UPON THE AVAILABILITY OF FACILITIES; PROVIDING FOR
6 TERMINATION OF SERVICES AND COLLECTION OF DELINQUENT CHARGES AS A TAX LIEN UPON
7 PROPERTY OR BY FILING SUIT IN ANY COURT WITH JURISDICTION; AUTHORIZING THE ISSUANCE OF
8 GENERAL OBLIGATION BONDS; CLARIFYING THE AUTHORITY TO ISSUE REFUNDING BONDS; AMENDING
9 SECTIONS 7-13-2218, 7-13-2301, 7-13-2321, AND 7-13-2324, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 7-13-2218, MCA, is amended to read:

15 **"7-13-2218. District powers related to water and sewer projects.** Any district incorporated as
16 provided in this part may:

17 (1) construct, purchase, lease, or otherwise acquire and operate and maintain water rights,
18 waterworks, sanitary sewerworks, storm sewerworks, canals, conduits, reservoirs, lands, and rights useful
19 or necessary to store, conserve, supply, produce, convey, or drain water or sewage for purposes beneficial
20 to the district. Beneficial purposes include but are not limited to flood prevention, flood control, irrigation,
21 drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution
22 abatement, livestock water supply, and other similar purposes.

23 (2) if the incorporators of the district are members of a private, nonprofit water association that
24 was formed under the laws of this state, acquire by eminent domain from that water association any type
25 of property referred to in this section;

26 (3) store water for the benefit of the district; conserve water for future use; appropriate, acquire,
27 and conserve water and water rights for the purposes of the district; commence, maintain, intervene in,
28 and compromise, in the name of the district, and assume the costs of any action or proceeding involving
29 or affecting the ownership or use of waters, water rights, or sewer rights within the district used or useful
30 for any purpose of the district or a benefit to any land situated in the district;

1 (4) commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent
 2 interference with or diminution of the natural flow of any stream or natural subterranean supply of waters
 3 used or useful for any purpose of the district or a common benefit to the lands within the district or its
 4 inhabitants;

5 (5) commence, maintain, and defend actions and proceedings to prevent any interference with the
 6 waters or rights referred to in this section as may endanger the inhabitants or lands of the district;

7 (6) lease from any person, firm, or public or private corporation, with the privilege of purchase or
 8 otherwise, existing water rights, waterworks, sewerworks, canals, or reservoir systems; and carry on and
 9 maintain them;

10 (7) sell water or the use of water for household or domestic or other similar purposes or sell sewer
 11 service and, whenever there is a surplus of water or sewerworks capacity, sell or otherwise dispose of the
 12 water or sewerworks capacity to municipalities or towns or to consumers located within or outside the
 13 boundaries of the district;

14 (8) retain the services of architects and engineers for designing, preparing a feasibility study for,
 15 and drawing plans and specifications of a water or sewer system for the district, with the cost of these
 16 services apportioned and assigned against properties in the district in accordance with 7-13-2301; and

17 (9) establish, by ordinance or resolution, rules and regulations for the operation, maintenance, use,
 18 and availability of any of its systems or improvements, including but not limited to connection procedures,
 19 service termination, and payment of rates and charges, including penalties and interest charges for
 20 delinquent accounts."

21
 22 **Section 2.** Section 7-13-2301, MCA, is amended to read:

23 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of
 24 directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer
 25 charges and the charges for the sale and distribution of water to all users.

26 (2) (a) The board, in the furnishing of water, sewer service, other services, and facilities, shall
 27 review, at least once every 2 years, and from time to time fix such the rate, fee, toll, rent, or other charge
 28 for the services, facilities, and benefits directly or indirectly afforded by the facilities, taking into account
 29 services provided and benefits received, that as will pay the operating expenses of the district, provide for
 30 repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and se

1 ~~far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may~~
 2 ~~become due~~ be sufficient in each year to provide income and revenue adequate for:

3 (i) the payment of the reasonable expense of operation and maintenance of the facilities;

4 (ii) administration of the district;

5 (iii) the payment of principal and interest on any bonded or other indebtedness of the district; and

6 (iv) the establishment or maintenance of any required reserves, including reserves needed for
 7 expenditures for depreciation and replacement of facilities, as may be determined necessary from time to
 8 time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the
 9 district.

10 (b) In addition to charges for the use of facilities of the district, the board may, if the facilities have
 11 been acquired, constructed, or improved by the use of bonds authorized in accordance with 7-13-2323
 12 through 7-13-2325, establish and impose charges, including maintenance charges to main service lines,
 13 for the availability of facilities to properties benefited by the facilities. IN ESTABLISHING AND IMPOSING
 14 THE FACILITIES CHARGE, THE BOARD MAY USE ANY ONE OR A COMBINATION OF THE METHODS OF
 15 ASSESSMENT APPLICABLE TO RURAL SPECIAL IMPROVEMENT DISTRICTS AS PROVIDED IN 7-12-2151.

16 (3) A person or entity may not use any facility without paying the rate established for the facility.
 17 In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to
 18 the property and may require that all delinquent charges, interest, penalties, and deposits be paid before
 19 restoration of the service.

20 (4) (a) A DISTRICT MAY ELECT TO HAVE ITS DELINQUENT CHARGES FOR WATER OR SEWER
 21 SERVICES COLLECTED AS A TAX AGAINST THE PROPERTY BY FOLLOWING THE PROCEDURES OF THIS
 22 SUBSECTION (4). If a charge for services incurred IS DUE AND PAYABLE in a fiscal year is not paid by the
 23 end of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to
 24 the owners of the property to which the service was provided. The notice must be in writing and:

25 (i) must specify the charges owed, including any interest and penalty;

26 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
 27 the property;

28 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
 29 the amount due; and

30 (iv) may be served on the owner personally or by letter addressed to the post-office address of the

1 owner as recorded in the county assessor's office.

2 (b) On September 1 of each year, the general manager shall certify and file with the county
 3 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list
 4 must include the amount of each arrearage, including interest and penalty. The county assessor shall
 5 assess the amount owed as a tax against each lot or parcel with an arrearage.

6 (5) In addition to collecting assessments in the same manner as a tax, a district may bring suit in
 7 any court of competent jurisdiction to collect amounts due as a debt owed to the district.

8 ~~(3)(6)~~ Notwithstanding any other section of ~~this part or~~ part 22 or this part or any limitation
 9 imposed ~~therein and in part 22 or this part,~~ when the board has applied for and received from the federal
 10 government any money for the construction, operation, and maintenance of ~~treatment services and works~~
 11 facilities, the board may adopt a system of charges and rates to require that each recipient of ~~treatment~~
 12 works facility services pays its proportionate share of the costs of operation, maintenance, and replacement
 13 and ~~to~~ may require industrial users of ~~treatment works facilities~~ facilities to pay the portion of the cost of
 14 construction of the ~~treatment works which~~ facilities that is allocable to the treatment of that industrial
 15 user's wastes."

16
 17 **Section 3.** Section 7-13-2321, MCA, is amended to read:

18 **"7-13-2321. Procedure to incur bonded indebtedness.** Whenever the board of directors ~~deems~~
 19 considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund
 20 bonded indebtedness as provided for in [section 6], it shall by a resolution ~~so declare and~~ state the purpose
 21 for ~~which~~ the proposed debt ~~is to be incurred,~~ the land within the district to be benefited ~~thereby,~~ the
 22 amount of debt to be incurred, the maximum term for the proposed bonds ~~proposed to be issued shall run~~
 23 before maturity, and the proposition to be submitted to the electors."

24
 25 **Section 4.** Section 7-13-2324, MCA, is amended to read:

26 **"7-13-2324. Notice of election on incurring bonded indebtedness.** (1) The board of directors shall
 27 give notice of the holding of the election. The notice ~~shall contain the resolution adopted by the board of~~
 28 ~~directors of the district,~~ must:

29 (a) state the date of the election;

30 (b) state the hours the polls will be open;

1 ~~(c) describe the boundaries of voting precincts, which shall include~~ may include only the lands to
2 be benefited as stated in the resolution,~~and the location of polling places;~~

3 ~~(d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term~~
4 of years for repayment of the bonds;

5 ~~(e) reference the resolution authorizing the election and state that it is available for public~~
6 inspection; and

7 ~~(f) state any other information that the board considers proper.~~

8 (2) The notice ~~shall~~ must be published as provided in 13-1-108."

9
10 **NEW SECTION. Section 5. Determination of benefit.** (1) Under part 22 or this part, the county
11 commissioners or board of directors of a district may, on the basis of whether the property is benefited by
12 the facilities, determine whether or not to include property in a district, to charge property for the use or
13 availability of services, or to charge property for a particular bonded indebtedness.

14 (2) In determining if a property is benefited, the county commissioners or board of directors shall
15 consider the following factors:

16 (a) whether the property is currently served by the facilities;

17 (b) whether the property would be served by the facilities if the owner elected to connect to the
18 facilities;

19 (c) whether additional facilities are required to allow the property to connect to the facilities;

20 (d) whether additional facilities have been authorized or whether plans to authorize the additional
21 facilities have been made and whether the additional facilities would be available within the next 3 years;

22 (e) the current use of the property;

23 (f) the permitted uses of the property under applicable zoning and land use regulations;

24 ~~(g) any estimated increase in the market value of the property as a result of the facilities;~~

25 ~~(h) (G)~~ (G) the character and location of the district;

26 ~~(i) (H)~~ (H) the character and location of the property;

27 ~~(j) (I)~~ (I) whether the property is served by other LIKE facilities of the district or other public
28 improvements; and

29 ~~(k) (J)~~ (J) any other relevant factors.

30

1 **NEW SECTION. Section 6. Issuance of general obligation bonds.** (1) In addition to the powers
2 granted to a district in this part to finance facilities and improvements, a district may issue general
3 obligation bonds for a term of up to 30 years to:

4 (a) provide funds to pay part or all of the cost of acquisition, construction, or improvement of
5 facilities; or

6 (b) refund any bonds issued for the acquisition, construction, or improvement of facilities.

7 (2) General obligation bonds issued pursuant to this section must be authorized, sold, and issued,
8 with provisions for their payment, in the manner and subject to the conditions prescribed for bonds of
9 school districts in Title 20, chapter 9, part 4, except to the extent that those conditions conflict with the
10 express provisions of part 22 or this part.

11 (3) Nothing in this section prohibits a district from imposing rates or other charges for the use or
12 availability of facilities that have been financed in whole or part by general obligation bonds under this
13 section if the revenue from the rates or charges is used to abate taxes that have been levied to pay the
14 principal or interest on the general obligation bonds or is used to pay the principal or interest on other
15 bonded indebtedness of the district.

16
17 **NEW SECTION. Section 7. Issuance of refunding bonds without election.** (1) (a) District refunding
18 bonds, issued to provide money to refund outstanding bonded indebtedness, may be issued without a vote
19 of the electorate. In order to issue refunding bonds, the board of directors shall adopt a resolution setting
20 forth the facts regarding the outstanding bonds that are to be redeemed, the reasons for issuing the
21 refunding bonds, and the terms and details of the refunding bond issue.

22 (b) After adopting a resolution, the board of directors may sell the bonds at times and in a manner
23 considered to be in the public interest.

24 (2) (a) Refunding bonds may be issued prior to the maturity or redemption date of the outstanding
25 bonds they are to refund. The proceeds of the refunding bonds, less any accrued interest or premium
26 received upon the sale of the refunding bonds or amounts to be used for the cost of issuance or
27 establishing reserves for the refunding bonds, must be deposited with other funds appropriated for payment
28 of the outstanding bonds in escrow with a suitable banking institution in or out of the state.

29 (b) Deposited funds must be invested in securities that are general obligations of the United States
30 or in securities for which the principal and interest are guaranteed by the United States. The securities

1 must be payable on the dates required and bear interest at a rate sufficient, with any cash retained in the
2 escrow account, to pay, when due, accrued interest on each refunded bond until its maturity or redemption
3 date if called for redemption. The securities must also be sufficient to pay the principal of the bond at
4 maturity or upon the redemption date and to pay any redemption premium.

5 (c) The escrow account must be irrevocably appropriated to the payment of principal, interest, and
6 redemption premium, if any, of the refunded bonds.

7 (d) A district may pay for reasonable costs of issuing the refunding bonds and maintaining the
8 escrow account. Alternatively, a district may issue crossover refunding bonds as provided in Title 17,
9 chapter 5, part 21.

10

11 **NEW SECTION. Section 8. Codification instruction.** [Sections 5 through 7] are intended to be
12 codified as an integral part of Title 7, chapter 13, part 23, and the provisions of Title 7, chapter 13, part
13 23, apply to [sections 5 through 7].

14

15 **NEW SECTION. Section 9. Effective date.** [This act] is effective on passage and approval.

16

-END-

1 HOUSE BILL NO. 308

2 INTRODUCED BY EWER, LARSON, PIPINICH, KEENAN, HARDING, GALVIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER
5 DISTRICTS; PROVIDING FOR RATES BASED UPON THE AVAILABILITY OF FACILITIES; PROVIDING FOR
6 TERMINATION OF SERVICES AND COLLECTION OF DELINQUENT CHARGES AS A TAX LIEN UPON
7 PROPERTY OR BY FILING SUIT IN ANY COURT WITH JURISDICTION; AUTHORIZING THE ISSUANCE OF
8 GENERAL OBLIGATION BONDS; CLARIFYING THE AUTHORITY TO ISSUE REFUNDING BONDS; AMENDING
9 SECTIONS 7-13-2218, 7-13-2301, 7-13-2321, AND 7-13-2324, MCA; AND PROVIDING AN IMMEDIATE
10 EFFECTIVE DATE."
11

12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13
14 **Section 1.** Section 7-13-2218, MCA, is amended to read:15 **"7-13-2218. District powers related to water and sewer projects.** Any district incorporated as
16 provided in this part may:17 (1) construct, purchase, lease, or otherwise acquire and operate and maintain water rights,
18 waterworks, sanitary sewerworks, storm sewerworks, canals, conduits, reservoirs, lands, and rights useful
19 or necessary to store, conserve, supply, produce, convey, or drain water or sewage for purposes beneficial
20 to the district. Beneficial purposes include but are not limited to flood prevention, flood control, irrigation,
21 drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution
22 abatement, livestock water supply, and other similar purposes.23 (2) if the incorporators of the district are members of a private, nonprofit water association that
24 was formed under the laws of this state, acquire by eminent domain from that water association any type
25 of property referred to in this section;26 (3) store water for the benefit of the district; conserve water for future use; appropriate, acquire,
27 and conserve water and water rights for the purposes of the district; commence, maintain, intervene in,
28 and compromise, in the name of the district, and assume the costs of any action or proceeding involving
29 or affecting the ownership or use of waters, water rights, or sewer rights within the district used or useful
30 for any purpose of the district or a benefit to any land situated in the district;

1 (4) commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent
 2 interference with or diminution of the natural flow of any stream or natural subterranean supply of waters
 3 used or useful for any purpose of the district or a common benefit to the lands within the district or its
 4 inhabitants;

5 (5) commence, maintain, and defend actions and proceedings to prevent any interference with the
 6 waters or rights referred to in this section as may endanger the inhabitants or lands of the district;

7 (6) lease from any person, firm, or public or private corporation, with the privilege of purchase or
 8 otherwise, existing water rights, waterworks, sewerworks, canals, or reservoir systems; and carry on and
 9 maintain them;

10 (7) sell water or the use of water for household or domestic or other similar purposes or sell sewer
 11 service and, whenever there is a surplus of water or sewerworks capacity, sell or otherwise dispose of the
 12 water or sewerworks capacity to municipalities or towns or to consumers located within or outside the
 13 boundaries of the district;

14 (8) retain the services of architects and engineers for designing, preparing a feasibility study for,
 15 and drawing plans and specifications of a water or sewer system for the district, with the cost of these
 16 services apportioned and assigned against properties in the district in accordance with 7-13-2301; and

17 (9) establish, by ordinance or resolution, rules and regulations for the operation, maintenance, use,
 18 and availability of any of its systems or improvements, including but not limited to connection procedures,
 19 service termination, and payment of rates and charges, including penalties and interest charges for
 20 delinquent accounts."

21

22 **Section 2.** Section 7-13-2301, MCA, is amended to read:

23 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of
 24 directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer
 25 charges and the charges for the sale and distribution of water to all users.

26 (2) (a) The board, in the furnishing of water, sewer service, other services, and facilities, shall
 27 review, at least once every 2 years, and from time to time fix such the rate, fee, toll, rent, or other charge
 28 for the services, facilities, and benefits directly or indirectly afforded by the facilities, taking into account
 29 services provided and benefits received, that as will pay the operating expenses of the district, provide for
 30 repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and so

1 ~~far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may~~
2 ~~become due~~ be sufficient in each year to provide income and revenue adequate for:

3 (i) the payment of the reasonable expense of operation and maintenance of the facilities;

4 (ii) administration of the district;

5 (iii) the payment of principal and interest on any bonded or other indebtedness of the district; and

6 (iv) the establishment or maintenance of any required reserves, including reserves needed for
7 expenditures for depreciation and replacement of facilities, as may be determined necessary from time to
8 time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the
9 district.

10 (b) In addition to charges for the use of facilities of the district, the board may, if the facilities have
11 been acquired, constructed, or improved by the use of bonds authorized in accordance with 7-13-2323
12 through 7-13-2325, establish and impose charges, ~~including maintenance charges to main service lines,~~
13 for the availability of facilities to properties benefited by the facilities. IN ESTABLISHING AND IMPOSING
14 THE FACILITIES CHARGE, THE BOARD MAY USE ANY ONE OR A COMBINATION OF THE METHODS OF
15 ASSESSMENT APPLICABLE TO RURAL SPECIAL IMPROVEMENT DISTRICTS AS PROVIDED IN 7-12-2151.

16 (3) A person or entity may not use any facility without paying the rate established for the facility.
17 In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to
18 the property and may require that all delinquent charges, interest, penalties, and deposits be paid before
19 restoration of the service.

20 (4) (a) A DISTRICT MAY ELECT TO HAVE ITS DELINQUENT CHARGES FOR WATER OR SEWER
21 SERVICES COLLECTED AS A TAX AGAINST THE PROPERTY BY FOLLOWING THE PROCEDURES OF THIS
22 SUBSECTION (4). If a charge for services ~~incurred~~ IS DUE AND PAYABLE in a fiscal year is not paid by the
23 end of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to
24 the owners of the property to which the service was provided. The notice must be in writing and:

25 (i) must specify the charges owed, including any interest and penalty;

26 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
27 the property;

28 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
29 the amount due; and

30 (iv) may be served on the owner personally or by letter addressed to the post-office address of the

1 owner as recorded in the county assessor's office.

2 (b) On September 1 of each year, the general manager shall certify and file with the county
 3 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list
 4 must include the amount of each arrearage, including interest and penalty. ~~The~~ UNLESS THE PROPERTY
 5 CONTAINS A MOBILE HOME, THE county assessor shall assess the amount owed as a tax against each
 6 lot or parcel with an arrearage. IF THE PROPERTY CONTAINS A MOBILE HOME, THE AMOUNT OWED AS
 7 A TAX MUST BE ASSESSED AGAINST THE OWNER OF THE MOBILE HOME.

8 (5) In addition to collecting assessments in the same manner as a tax, a district may bring suit in
 9 any court of competent jurisdiction to collect amounts due as a debt owed to the district.

10 ~~(3)(6)~~ Notwithstanding any other section of ~~this part or~~ part 22 or this part or any limitation
 11 imposed ~~therein and in part 22 or this part~~, when the board has applied for and received from the federal
 12 government any money for the construction, operation, and maintenance of ~~treatment services and works~~
 13 facilities, the board may adopt a system of charges and rates to require that each recipient of ~~treatment~~
 14 ~~works facility~~ services pays its proportionate share of the costs of operation, maintenance, and replacement
 15 and ~~to~~ may require industrial users of ~~treatment works facilities~~ to pay the portion of the cost of
 16 construction of the ~~treatment works which facilities that~~ facilities that is allocable to the treatment of that industrial
 17 user's wastes."

18

19 **Section 3.** Section 7-13-2321, MCA, is amended to read:

20 **"7-13-2321. Procedure to incur bonded indebtedness.** Whenever the board of directors ~~deems~~
 21 considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund
 22 bonded indebtedness as provided for in [section 6 5], it shall by a resolution ~~so declare and~~ state the
 23 purpose for ~~which~~ the proposed debt ~~is to be incurred~~, the land within the district to be benefited ~~thereby~~,
 24 the amount of debt to be incurred, the maximum term for the proposed bonds ~~proposed to be issued shall~~
 25 ~~run~~ before maturity, and the proposition to be submitted to the electors."

26

27 **Section 4.** Section 7-13-2324, MCA, is amended to read:

28 **"7-13-2324. Notice of election on incurring bonded indebtedness.** (1) The board of directors shall
 29 give notice of the holding of the election. The notice ~~shall contain the resolution adopted by the board of~~
 30 ~~directors of the district~~, must:

- 1 (a) state the date of the election;
- 2 (b) state the hours the polls will be open;
- 3 (c) describe the boundaries of voting precincts, which ~~shall include~~ may include only the lands to
- 4 be benefited as stated in the resolution, ~~and the location of polling places;~~
- 5 (d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term
- 6 of years for repayment of the bonds;
- 7 (e) reference the resolution authorizing the election and state that it is available for public
- 8 inspection; and
- 9 (f) state any other information that the board considers proper.
- 10 (2) The notice ~~shall~~ must be published as provided in 13-1-108."

11

12 ~~**NEW SECTION. Section 5. Determination of benefit.** (1) Under part 22 of this part, the county~~

13 ~~commissioners or board of directors of a district may, on the basis of whether the property is benefited by~~

14 ~~the facilities, determine whether or not to include property in a district, to charge property for the use or~~

15 ~~availability of services, or to charge property for a particular bonded indebtedness.~~

16 ~~(2) In determining if a property is benefited, the county commissioners or board of directors shall~~

17 ~~consider the following factors:~~

- 18 ~~(a) whether the property is currently served by the facilities;~~
- 19 ~~(b) whether the property would be served by the facilities if the owner elected to connect to the~~
- 20 ~~facilities;~~
- 21 ~~(c) whether additional facilities are required to allow the property to connect to the facilities;~~
- 22 ~~(d) whether additional facilities have been authorized or whether plans to authorize the additional~~
- 23 ~~facilities have been made and whether the additional facilities would be available within the next 3 years;~~
- 24 ~~(e) the current use of the property;~~
- 25 ~~(f) the permitted uses of the property under applicable zoning and land use regulations;~~
- 26 ~~(g) any estimated increase in the market value of the property as a result of the facilities;~~
- 27 ~~(h) (G) the character and location of the district;~~
- 28 ~~(i) (H) the character and location of the property;~~
- 29 ~~(j) (I) whether the property is served by other LIKE facilities of the district or other public~~
- 30 ~~improvements; and~~

1 ~~((k) (j) any other relevant factors.~~

2
3 **NEW SECTION. Section 5. Issuance of general obligation bonds.** (1) In addition to the powers
4 granted to a district in this part to finance facilities and improvements, a district may issue general
5 obligation bonds for a term of up to 30 years to:

6 (a) provide funds to pay part or all of the cost of acquisition, construction, or improvement of
7 facilities; or

8 (b) refund any bonds issued for the acquisition, construction, or improvement of facilities.

9 (2) General obligation bonds issued pursuant to this section must be authorized, sold, and issued,
10 with provisions for their payment, in the manner and subject to the conditions prescribed for bonds of
11 school districts in Title 20, chapter 9, part 4, except to the extent that those conditions conflict with the
12 express provisions of part 22 or this part.

13 (3) Nothing in this section prohibits a district from imposing rates or other charges for the use or
14 availability of facilities that have been financed in whole or part by general obligation bonds under this
15 section if the revenue from the rates or charges is used to abate taxes that have been levied to pay the
16 principal or interest on the general obligation bonds or is used to pay the principal or interest on other
17 bonded indebtedness of the district. PRIOR TO IMPOSING RATES OR CHARGES FOR FACILITIES UNDER
18 THIS SUBSECTION, A NOTICE MUST BE PUBLISHED AS PROVIDED IN 7-1-2121 AND A HEARING ON THE
19 IMPOSITION OF THE RATES OR CHARGES MUST BE HELD AT A TIME AND PLACE NOTED IN THE
20 NOTICE.

21
22 **NEW SECTION. Section 6. Issuance of refunding bonds without election.** (1) (a) District refunding
23 bonds, issued to provide money to refund outstanding bonded indebtedness, may be issued without a vote
24 of the electorate. In order to issue refunding bonds, the board of directors shall adopt a resolution setting
25 forth the facts regarding the outstanding bonds that are to be redeemed, the reasons for issuing the
26 refunding bonds, and the terms and details of the refunding bond issue.

27 (b) After adopting a resolution, the board of directors may sell the bonds at times and in a manner
28 considered to be in the public interest.

29 (2) (a) Refunding bonds may be issued prior to the maturity or redemption date of the outstanding
30 bonds they are to refund. The proceeds of the refunding bonds, less any accrued interest or premium

1 received upon the sale of the refunding bonds or amounts to be used for the cost of issuance or
2 establishing reserves for the refunding bonds, must be deposited with other funds appropriated for payment
3 of the outstanding bonds in escrow with a suitable banking institution in or out of the state.

4 (b) Deposited funds must be invested in securities that are general obligations of the United States
5 or in securities for which the principal and interest are guaranteed by the United States. The securities
6 must be payable on the dates required and bear interest at a rate sufficient, with any cash retained in the
7 escrow account, to pay, when due, accrued interest on each refunded bond until its maturity or redemption
8 date if called for redemption. The securities must also be sufficient to pay the principal of the bond at
9 maturity or upon the redemption date and to pay any redemption premium.

10 (c) The escrow account must be irrevocably appropriated to the payment of principal, interest, and
11 redemption premium, if any, of the refunded bonds.

12 (d) A district may pay for reasonable costs of issuing the refunding bonds and maintaining the
13 escrow account. Alternatively, a district may issue crossover refunding bonds as provided in Title 17,
14 chapter 5, part 21.

15
16 **NEW SECTION. Section 7. Codification instruction.** [Sections ~~5 through 7~~ **5 AND 6**] are intended
17 to be codified as an integral part of Title 7, chapter 13, part 23, and the provisions of Title 7, chapter 13,
18 part 23, apply to [sections ~~5 through 7~~ **5 AND 6**].

19
20 **NEW SECTION. Section 8. Effective date.** [This act] is effective on passage and approval.

21 -END-

SENATE STANDING COMMITTEE REPORT

Page 1 of 3
March 24, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration HB 308 (third reading copy -- blue), respectfully report that HB 308 be amended as follows and as so amended be concurred in.

Signed: 
Senator Tom Beck, Chair

That such amendments read:

1. Title, line 5.

Following: "FACILITIES;"

Insert: "CLARIFYING THAT WATER AND SEWER DISTRICTS ARE SUBJECT TO OPEN MEETING REQUIREMENTS; PROVIDING FOR NOTICE AND FOR PUBLIC HEARINGS;"

2. Title, line 7.

Following: "JURISDICTION;"

Insert: "PROVIDING FACTORS FOR DETERMINING IF PROPERTY IS BENEFITED;"

3. Title, line 9.

Following: "7-13-2218,"

Insert: "7-13-2274, 7-13-2275,"

4. Title, line 10.

Following: "DATE"

Insert: "AND AN APPLICABILITY DATE"

5. Page 2, line 21.

Insert: "

Section 2. Section 7-13-2274, MCA, is amended to read:


"7-13-2274. **Conduct of business.** (1) All legislative sessions of the board of directors, whether regular or special, shall must be open to the public. Notice of the sessions must be given and the sessions must be held in compliance with the requirements of Title 2, chapter 3, parts 1 and 2.

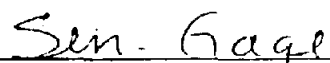
(2) A majority of the board ~~shall constitute~~ constitutes a quorum for the transaction of business.

(3) The board ~~shall may~~ act only by ordinance or resolution."

Section 3. Section 7-13-2275, MCA, is amended to read:

"7-13-2275. **Procedure relating to ordinances and resolutions -- rates, fees, and charges established.** (1) The ayes and noes ~~shall must~~ be taken upon the passage of all ordinances


Amd. Coord.
Sec. of Senate


Senator Carrying Bill

HB 308

SENATE

or resolutions and entered upon the journal of the proceedings of the board of directors. ~~No~~ An ordinance or resolution ~~shall~~ may ~~not~~ be passed or become effective without the affirmative votes of at least a majority of the total members of the board.

(2) The enacting clause of all ordinances passed by the board ~~shall~~ must be in these words: "Be it ordained by the board of directors of district as follows:"

(3) All resolutions and ordinances ~~shall~~ must be signed by the president of the board and attested by the secretary.

(4) Prior to the passage or enactment of an ordinance or resolution imposing, establishing, changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public hearing.

(a) Notice of the public hearing must be published as provided in 7-1-2121. The published notice must contain:

(i) the date, time, and place of the hearing;

(ii) a brief statement of the proposed action; and

(iii) the address and telephone number of a person who may be contacted for further information regarding the hearing.

(b) The notice must also be mailed to all persons who own property in the district and to all customers of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed notice must contain an estimate of the amount that the property owner or customer will be charged under the proposed ordinance or resolution.

(c) Any interested person, corporation, or company may be present, represented by counsel, and testify at the hearing.

(d) The hearing may be continued by the board as necessary. After the public hearing, the board may, by resolution, impose, establish, change, or increase rates, fees, or charges."

Renumber: subsequent sections

6. Page 4, lines 4 and 5.

Following: "~~The~~" on line 4

Strike: the remainder of line 4 through "THE" on line 5

Insert: "The"

7. Page 4, lines 6 and 7.

Following: "arrearage." on line 6

Strike: the remainder of line 6 through "HOME." on line 7

8. Page 6, line 2.

Insert: "

NEW SECTION. Section 7. Determination of benefit. (1)
Under part 22 or this part, the county commissioners or board of directors of a district may, on the basis of whether the property is benefited by the facilities, determine whether or not to

include property in a district, to charge property for the use or availability of services, or to charge property for a particular bonded indebtedness.

(2) In determining if a property is benefited, the county commissioners or board of directors shall consider the following factors:

(a) whether the property is currently served by the facilities;

(b) whether the property would be served by the facilities if the owner elected to connect to the facilities;

(c) whether additional facilities are required to allow the property to connect to the facilities;

(d) whether additional facilities have been authorized or plans to authorize the additional facilities have been made and whether the additional facilities would be available within the next 3 years;

(e) the current use of the property;

(f) the permitted uses of the property under applicable zoning and land use regulations;

(g) any estimated increase in the market value of the property as a result of the facilities;

(h) the character and location of the district;

(i) the character and location of the property;

(j) whether the property is served by other facilities of the district or other public improvements; and

(k) any other relevant factors."

Renumber: subsequent sections

9. Page 6, lines 17 through 20.

Following: "district."

Strike: the remainder of line 17 through line 20

10. Page 7, lines 16 and 18.

Strike: "5 AND 6"

Insert: "7 through 9"

11. Page 7, line 20.

Following: "date"

Insert: "-- applicability"

Following: "."

Insert: "(1)"

12. Page 7, line 21.

Insert: "(2) Section 7-13-2301(2)(b) applies to bonds issued prior to, on, or after [the effective date of this act]."

-END-

1 HOUSE BILL NO. 308

2 INTRODUCED BY EWER, LARSON, PIPINICH, KEENAN, HARDING, GALVIN

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER
5 DISTRICTS; PROVIDING FOR RATES BASED UPON THE AVAILABILITY OF FACILITIES; CLARIFYING THAT
6 WATER AND SEWER DISTRICTS ARE SUBJECT TO OPEN MEETING REQUIREMENTS; PROVIDING FOR
7 NOTICE AND FOR PUBLIC HEARINGS; PROVIDING FOR TERMINATION OF SERVICES AND COLLECTION
8 OF DELINQUENT CHARGES AS A TAX LIEN UPON PROPERTY OR BY FILING SUIT IN ANY COURT WITH
9 JURISDICTION; PROVIDING FACTORS FOR DETERMINING IF PROPERTY IS BENEFITED; AUTHORIZING
10 THE ISSUANCE OF GENERAL OBLIGATION BONDS; CLARIFYING THE AUTHORITY TO ISSUE REFUNDING
11 BONDS; AMENDING SECTIONS 7-13-2218, 7-13-2274, 7-13-2275, 7-13-2301, 7-13-2321, AND
12 7-13-2324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

13
14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

15
16 **Section 1.** Section 7-13-2218, MCA, is amended to read:

17 "7-13-2218. **District powers related to water and sewer projects.** Any district incorporated as
18 provided in this part may:

19 (1) construct, purchase, lease, or otherwise acquire and operate and maintain water rights,
20 waterworks, sanitary sewerworks, storm sewerworks, canals, conduits, reservoirs, lands, and rights useful
21 or necessary to store, conserve, supply, produce, convey, or drain water or sewage for purposes beneficial
22 to the district. Beneficial purposes include but are not limited to flood prevention, flood control, irrigation,
23 drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution
24 abatement, livestock water supply, and other similar purposes.

25 (2) if the incorporators of the district are members of a private, nonprofit water association that
26 was formed under the laws of this state, acquire by eminent domain from that water association any type
27 of property referred to in this section;

28 (3) store water for the benefit of the district; conserve water for future use; appropriate, acquire,
29 and conserve water and water rights for the purposes of the district; commence, maintain, intervene in,
30 and compromise, in the name of the district, and assume the costs of any action or proceeding involving

1 or affecting the ownership or use of waters, water rights, or sewer rights within the district used or useful
 2 for any purpose of the district or a benefit to any land situated in the district;

3 (4) commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent
 4 interference with or diminution of the natural flow of any stream or natural subterranean supply of waters
 5 used or useful for any purpose of the district or a common benefit to the lands within the district or its
 6 inhabitants;

7 (5) commence, maintain, and defend actions and proceedings to prevent any interference with the
 8 waters or rights referred to in this section as may endanger the inhabitants or lands of the district;

9 (6) lease from any person, firm, or public or private corporation, with the privilege of purchase or
 10 otherwise, existing water rights, waterworks, sewerworks, canals, or reservoir systems; and carry on and
 11 maintain them;

12 (7) sell water or the use of water for household or domestic or other similar purposes or sell sewer
 13 service and, whenever there is a surplus of water or sewerworks capacity, sell or otherwise dispose of the
 14 water or sewerworks capacity to municipalities or towns or to consumers located within or outside the
 15 boundaries of the district;

16 (8) retain the services of architects and engineers for designing, preparing a feasibility study for,
 17 and drawing plans and specifications of a water or sewer system for the district, with the cost of these
 18 services apportioned and assigned against properties in the district in accordance with 7-13-2301; and

19 (9) establish, by ordinance or resolution, rules and regulations for the operation, maintenance, use,
 20 and availability of any of its systems or improvements, including but not limited to connection procedures,
 21 service termination, and payment of rates and charges, including penalties and interest charges for
 22 delinquent accounts."

23

24 **SECTION 2. SECTION 7-13-2274, MCA, IS AMENDED TO READ:**

25 "**7-13-2274. Conduct of business.** (1) All legislative sessions of the board of directors, whether
 26 regular or special, ~~shall~~ must be open to the public. Notice of the sessions must be given and the sessions
 27 must be held in compliance with the requirements of Title 2, chapter 3, parts 1 and 2.

28 (2) A majority of the board ~~shall constitute~~ constitutes a quorum for the transaction of business.

29 (3) The board ~~shall~~ may act only by ordinance or resolution."
 30

1 **SECTION 3. SECTION 7-13-2275, MCA, IS AMENDED TO READ:**

2 **"7-13-2275. Procedure relating to ordinances and resolutions -- rates, fees, and charges**
3 **established.** (1) The ayes and noes ~~shall~~ **must** be taken upon the passage of all ordinances or resolutions
4 and entered upon the journal of the proceedings of the board of directors. ~~No~~ **An** ordinance or resolution
5 ~~shall~~ **may not** be passed or become effective without the affirmative votes of at least a majority of the total
6 members of the board.

7 (2) The enacting clause of all ordinances passed by the board ~~shall~~ **must** be in these words: "Be
8 it ordained by the board of directors of district as follows:"

9 (3) All resolutions and ordinances ~~shall~~ **must** be signed by the president of the board and attested
10 by the secretary.

11 **(4) Prior to the passage or enactment of an ordinance or resolution imposing, establishing,**
12 **changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public**
13 **hearing.**

14 **(a) Notice of the public hearing must be published as provided in 7-1-2121. The published notice**
15 **must contain:**

16 **(i) the date, time, and place of the hearing;**

17 **(ii) a brief statement of the proposed action; and**

18 **(iii) the address and telephone number of a person who may be contacted for further information**
19 **regarding the hearing.**

20 **(b) The notice must also be mailed to all persons who own property in the district and to all**
21 **customers of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed**
22 **notice must contain an estimate of the amount that the property owner or customer will be charged under**
23 **the proposed ordinance or resolution.**

24 **(c) Any interested person, corporation, or company may be present, represented by counsel, and**
25 **testify at the hearing.**

26 **(d) The hearing may be continued by the board as necessary. After the public hearing, the board**
27 **may, by resolution, impose, establish, change, or increase rates, fees, or charges."**

28
29 **Section 4. Section 7-13-2301, MCA, is amended to read:**

30 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of

1 directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer
2 charges and the charges for the sale and distribution of water to all users.

3 (2) (a) The board, in the furnishing of water, sewer service, other services, and facilities, shall
4 review, at least once every 2 years, and from time to time fix such the rate, fee, toll, rent, or other charge
5 for the services, facilities, and benefits directly or indirectly afforded by the facilities, taking into account
6 services provided and benefits received, that as will pay the operating expenses of the district, provide for
7 repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt, and so
8 far as possible, provide a sinking or other fund for the payment of the principal of such debt as it may
9 become due be sufficient in each year to provide income and revenue adequate for:

10 (i) the payment of the reasonable expense of operation and maintenance of the facilities;

11 (ii) administration of the district;

12 (iii) the payment of principal and interest on any bonded or other indebtedness of the district; and

13 (iv) the establishment or maintenance of any required reserves, including reserves needed for
14 expenditures for depreciation and replacement of facilities, as may be determined necessary from time to
15 time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the
16 district.

17 (b) In addition to charges for the use of facilities of the district, the board may, if the facilities have
18 been acquired, constructed, or improved by the use of bonds authorized in accordance with 7-13-2323
19 through 7-13-2325, establish and impose charges, including maintenance charges to main service lines,
20 for the availability of facilities to properties benefited by the facilities. IN ESTABLISHING AND IMPOSING
21 THE FACILITIES CHARGE, THE BOARD MAY USE ANY ONE OR A COMBINATION OF THE METHODS OF
22 ASSESSMENT APPLICABLE TO RURAL SPECIAL IMPROVEMENT DISTRICTS AS PROVIDED IN 7-12-2151.

23 (3) A person or entity may not use any facility without paying the rate established for the facility.
24 In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to
25 the property and may require that all delinquent charges, interest, penalties, and deposits be paid before
26 restoration of the service.

27 (4) (a) A DISTRICT MAY ELECT TO HAVE ITS DELINQUENT CHARGES FOR WATER OR SEWER
28 SERVICES COLLECTED AS A TAX AGAINST THE PROPERTY BY FOLLOWING THE PROCEDURES OF THIS
29 SUBSECTION (4). If a charge for services incurred IS DUE AND PAYABLE in a fiscal year is not paid by the
30 end of the fiscal year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to

1 the owners of the property to which the service was provided. The notice must be in writing and:

2 (i) must specify the charges owed, including any interest and penalty;

3 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
4 the property;

5 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
6 the amount due; and

7 (iv) may be served on the owner personally or by letter addressed to the post-office address of the
8 owner as recorded in the county assessor's office.

9 (b) On September 1 of each year, the general manager shall certify and file with the county
10 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list
11 must include the amount of each arrearage, including interest and penalty. ~~The UNLESS THE PROPERTY~~
12 ~~CONTAINS A MOBILE HOME, THE~~ THE county assessor shall assess the amount owed as a tax against
13 each lot or parcel with an arrearage. ~~IF THE PROPERTY CONTAINS A MOBILE HOME, THE AMOUNT~~
14 ~~OWED AS A TAX MUST BE ASSESSED AGAINST THE OWNER OF THE MOBILE HOME.~~

15 (5) In addition to collecting assessments in the same manner as a tax, a district may bring suit in
16 any court of competent jurisdiction to collect amounts due as a debt owed to the district.

17 ~~(3)(6)~~ Notwithstanding any other section of ~~this part or~~ part 22 or this part or any limitation
18 imposed ~~therein and in part 22 or this part~~, when the board has applied for and received from the federal
19 government any money for the construction, operation, and maintenance of ~~treatment services and works~~
20 ~~facilities~~, the board may adopt a system of charges and rates to require that each recipient of ~~treatment~~
21 ~~works~~ facility services pays its proportionate share of the costs of operation, maintenance, and replacement
22 and ~~to~~ may require industrial users of ~~treatment works~~ facilities to pay the portion of the cost of
23 construction of the ~~treatment works which~~ facilities that is allocable to the treatment of that industrial
24 user's wastes."

25
26 **Section 5.** Section 7-13-2321, MCA, is amended to read:

27 **"7-13-2321. Procedure to incur bonded indebtedness.** Whenever the board of directors ~~deems~~
28 considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund
29 bonded indebtedness as provided for in [section 6 5], it shall by a resolution ~~so declare and~~ state the
30 purpose for ~~which~~ the proposed debt ~~is to be incurred~~, the land within the district to be benefited ~~thereby~~,

1 the amount of debt to be incurred, the maximum term for the proposed bonds ~~proposed to be issued shall~~
 2 ~~run~~ before maturity, and the proposition to be submitted to the electors."

3
 4 **Section 6.** Section 7-13-2324, MCA, is amended to read:

5 **"7-13-2324. Notice of election on incurring bonded indebtedness.** (1) The board of directors shall
 6 give notice of the holding of the election. The notice ~~shall contain the resolution adopted by the board of~~
 7 ~~directors of the district,~~ must:

8 (a) state the date of the election;

9 (b) state the hours the polls will be open;

10 (c) describe the boundaries of voting precincts, which ~~shall include~~ may include only the lands to

11 be benefited as stated in the resolution, ~~and the location of polling places;~~

12 (d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term
 13 of years for repayment of the bonds;

14 (e) reference the resolution authorizing the election and state that it is available for public
 15 inspection; and

16 (f) state any other information that the board considers proper.

17 (2) The notice ~~shall~~ must be published as provided in 13-1-108."

18
 19 ~~**NEW SECTION. Section 5. Determination of benefit.** (1) Under part 22 of this part, the county~~
 20 ~~commissioners or board of directors of a district may, on the basis of whether the property is benefited by~~
 21 ~~the facilities, determine whether or not to include property in a district, to charge property for the use or~~
 22 ~~availability of services, or to charge property for a particular bonded indebtedness.~~

23 ~~(2) In determining if a property is benefited, the county commissioners or board of directors shall~~
 24 ~~consider the following factors:~~

25 ~~(a) whether the property is currently served by the facilities;~~

26 ~~(b) whether the property would be served by the facilities if the owner elected to connect to the~~
 27 ~~facilities;~~

28 ~~(c) whether additional facilities are required to allow the property to connect to the facilities;~~

29 ~~(d) whether additional facilities have been authorized or whether plans to authorize the additional~~
 30 ~~facilities have been made and whether the additional facilities would be available within the next 3 years;~~

- 1 ~~(e) the current use of the property;~~
 2 ~~(f) the permitted uses of the property under applicable zoning and land use regulations;~~
 3 ~~(g) any estimated increase in the market value of the property as a result of the facilities;~~
 4 ~~(h) (G) the character and location of the district;~~
 5 ~~(i) (H) the character and location of the property;~~
 6 ~~(j) (I) whether the property is served by other LIKE facilities of the district or other public~~
 7 ~~improvements; and~~
 8 ~~(k) (J) any other relevant factors.~~

10 NEW SECTION. SECTION 7. DETERMINATION OF BENEFIT. (1) UNDER PART 22 OR THIS PART,
 11 THE COUNTY COMMISSIONERS OR BOARD OF DIRECTORS OF A DISTRICT MAY, ON THE BASIS OF
 12 WHETHER THE PROPERTY IS BENEFITED BY THE FACILITIES, DETERMINE WHETHER OR NOT TO
 13 INCLUDE PROPERTY IN A DISTRICT, TO CHARGE PROPERTY FOR THE USE OR AVAILABILITY OF
 14 SERVICES, OR TO CHARGE PROPERTY FOR A PARTICULAR BONDED INDEBTEDNESS.

15 (2) IN DETERMINING IF A PROPERTY IS BENEFITED, THE COUNTY COMMISSIONERS OR BOARD
 16 OF DIRECTORS SHALL CONSIDER THE FOLLOWING FACTORS:

17 (A) WHETHER THE PROPERTY IS CURRENTLY SERVED BY THE FACILITIES;

18 (B) WHETHER THE PROPERTY WOULD BE SERVED BY THE FACILITIES IF THE OWNER ELECTED
 19 TO CONNECT TO THE FACILITIES;

20 (C) WHETHER ADDITIONAL FACILITIES ARE REQUIRED TO ALLOW THE PROPERTY TO CONNECT
 21 TO THE FACILITIES;

22 (D) WHETHER ADDITIONAL FACILITIES HAVE BEEN AUTHORIZED OR PLANS TO AUTHORIZE THE
 23 ADDITIONAL FACILITIES HAVE BEEN MADE AND WHETHER THE ADDITIONAL FACILITIES WOULD BE
 24 AVAILABLE WITHIN THE NEXT 3 YEARS;

25 (E) THE CURRENT USE OF THE PROPERTY;

26 (F) THE PERMITTED USES OF THE PROPERTY UNDER APPLICABLE ZONING AND LAND USE
 27 REGULATIONS;

28 (G) ANY ESTIMATED INCREASE IN THE MARKET VALUE OF THE PROPERTY AS A RESULT OF
 29 THE FACILITIES;

30 (H) THE CHARACTER AND LOCATION OF THE DISTRICT;

1 (I) THE CHARACTER AND LOCATION OF THE PROPERTY;

2 (J) WHETHER THE PROPERTY IS SERVED BY OTHER FACILITIES OF THE DISTRICT OR OTHER

3 PUBLIC IMPROVEMENTS; AND

4 (K) ANY OTHER RELEVANT FACTORS.

5
6 NEW SECTION. Section 8. Issuance of general obligation bonds. (1) In addition to the powers
7 granted to a district in this part to finance facilities and improvements, a district may issue general
8 obligation bonds for a term of up to 30 years to:

9 (a) provide funds to pay part or all of the cost of acquisition, construction, or improvement of
10 facilities; or

11 (b) refund any bonds issued for the acquisition, construction, or improvement of facilities.

12 (2) General obligation bonds issued pursuant to this section must be authorized, sold, and issued,
13 with provisions for their payment, in the manner and subject to the conditions prescribed for bonds of
14 school districts in Title 20, chapter 9, part 4, except to the extent that those conditions conflict with the
15 express provisions of part 22 or this part.

16 (3) Nothing in this section prohibits a district from imposing rates or other charges for the use or
17 availability of facilities that have been financed in whole or part by general obligation bonds under this
18 section if the revenue from the rates or charges is used to abate taxes that have been levied to pay the
19 principal or interest on the general obligation bonds or is used to pay the principal or interest on other
20 bonded indebtedness of the district. ~~PRIOR TO IMPOSING RATES OR CHARGES FOR FACILITIES UNDER~~

21 ~~THIS SUBSECTION, A NOTICE MUST BE PUBLISHED AS PROVIDED IN 7-1-2121 AND A HEARING ON THE~~
22 ~~IMPOSITION OF THE RATES OR CHARGES MUST BE HELD AT A TIME AND PLACE NOTED IN THE~~
23 ~~NOTICE.~~

24
25 NEW SECTION. Section 9. Issuance of refunding bonds without election. (1) (a) District refunding
26 bonds, issued to provide money to refund outstanding bonded indebtedness, may be issued without a vote
27 of the electorate. In order to issue refunding bonds, the board of directors shall adopt a resolution setting
28 forth the facts regarding the outstanding bonds that are to be redeemed, the reasons for issuing the
29 refunding bonds, and the terms and details of the refunding bond issue.

30 (b) After adopting a resolution, the board of directors may sell the bonds at times and in a manner

1 considered to be in the public interest.

2 (2) (a) Refunding bonds may be issued prior to the maturity or redemption date of the outstanding
3 bonds they are to refund. The proceeds of the refunding bonds, less any accrued interest or premium
4 received upon the sale of the refunding bonds or amounts to be used for the cost of issuance or
5 establishing reserves for the refunding bonds, must be deposited with other funds appropriated for payment
6 of the outstanding bonds in escrow with a suitable banking institution in or out of the state.

7 (b) Deposited funds must be invested in securities that are general obligations of the United States
8 or in securities for which the principal and interest are guaranteed by the United States. The securities
9 must be payable on the dates required and bear interest at a rate sufficient, with any cash retained in the
10 escrow account, to pay, when due, accrued interest on each refunded bond until its maturity or redemption
11 date if called for redemption. The securities must also be sufficient to pay the principal of the bond at
12 maturity or upon the redemption date and to pay any redemption premium.

13 (c) The escrow account must be irrevocably appropriated to the payment of principal, interest, and
14 redemption premium, if any, of the refunded bonds.

15 (d) A district may pay for reasonable costs of issuing the refunding bonds and maintaining the
16 escrow account. Alternatively, a district may issue crossover refunding bonds as provided in Title 17,
17 chapter 5, part 21.

18
19 **NEW SECTION. Section 10. Codification instruction.** [Sections ~~5 through 7 5 AND 6 7 THROUGH~~
20 ~~9~~] are intended to be codified as an integral part of Title 7, chapter 13, part 23, and the provisions of Title
21 7, chapter 13, part 23, apply to [sections ~~5 through 7 5 AND 6 7 THROUGH 9~~].

22
23 **NEW SECTION. Section 11. Effective date -- APPLICABILITY.** (1) [This act] is effective on
24 passage and approval.

25 **(2) SECTION 7-13-2301(2)(B) APPLIES TO BONDS ISSUED PRIOR TO, ON, OR AFTER [THE**
26 **EFFECTIVE DATE OF THIS ACT].**

27 -END-



FREE CONFERENCE COMMITTEE

on House Bill 308
Report No. 1, April 7, 1995

Page 1 of 3

Mr. Speaker and Mr. President:

We, your Free Conference Committee met and considered **House Bill 308** and recommend the following amendments:

1. Title, line 5.

Strike: "AVAILABILITY"

Insert: "DIRECT BENEFIT"

2. Title, line 9.

Following: "JURISDICTION;"

Strike: "PROVIDING" through "BENEFITED;"

3. Title, line 12.

Following: "DATE"

Strike: "AND AN APPLICABILITY DATE"

4. Page 2, line 18.

Strike: "in accordance with 7-13-2301"

5. Page 4, line 3.

Strike: "(a)"

6. Page 4, line 5.

Strike: "or indirectly"

7. Page 4, line 6.

Following: "and"

Insert: "direct"

8. Page 4, lines 17 through 22.

Strike: subsection (b) in its entirety

9. Page 4, line 27.

Following: "(a)"

Strike: "A"

ADOPT

REJECT

HB 308
FCCR#1

801635CC.Hbk

Insert: "If the board has ordered discontinuance of service as provided in subsection (3) and the person or entity who received the service has not made full payment of all delinquent charges, interest, penalties, and deposits, then a"

10. Page 5, line 14.

Following: "~~HOME.~~"

Insert: "If the property on which arrearages remain unpaid contains a mobile home, the amount owed must be assessed as a tax against the owner of the mobile home. If the mobile home for which arrearages remain unpaid is no longer on the property, the amount owed must be assessed as a tax against the property."

11. Page 5, line 15.

Strike: "assessments"

Insert: "delinquent charges"

12. Page 5, line 29.

Strike: "5"

Insert: "7"

13. Page 7, line 10 through page 8, line 4.

Strike: section 7 in its entirety

Re-number: subsequent sections

14. Page 8, line 8.

Strike: "30"

Insert: "40"

15. Page 8, lines 16 and 17.

Following: "use" on line 16

Strike: "or" on line 16 through "availability" on line 17

16. Page 9, lines 19 and 20.

Strike: "THROUGH" on line 19 through "9" on line 20

Insert: "and 8"

17. Page 9, line 21.

Strike: "THROUGH 9"

Insert: "and 8"

18. Page 9, line 23.

Strike: "-- APPLICABILITY"

Strike: "(1)"

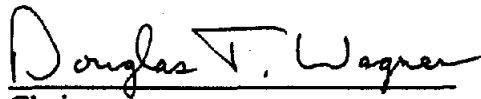
19. Page 9, lines 25 and 26.

Strike: subsection (2) in its entirety

We recommend that the amendments considered above to House Bill 308 be acceded to by the senate.

And this FREE Conference Committee report be adopted.

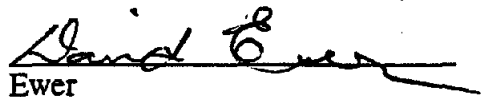
For the House:



Chair
Wagner

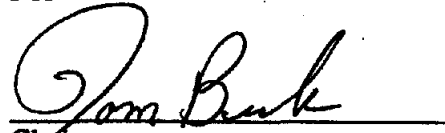


Somerville

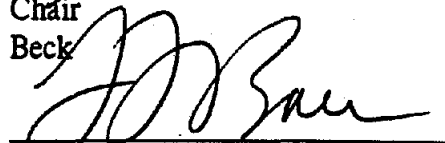


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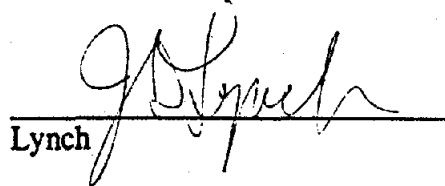
For the Senate:



Chair
Beck



Baer



Lynch

1 HOUSE BILL NO. 308

2 INTRODUCED BY EWER, LARSON, PIPINICH, KEENAN, HARDING, GALVIN

3
 4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATING TO COUNTY WATER AND SEWER
 5 DISTRICTS; PROVIDING FOR RATES BASED UPON THE ~~AVAILABILITY~~ DIRECT BENEFIT OF FACILITIES;
 6 CLARIFYING THAT WATER AND SEWER DISTRICTS ARE SUBJECT TO OPEN MEETING REQUIREMENTS;
 7 PROVIDING FOR NOTICE AND FOR PUBLIC HEARINGS; PROVIDING FOR TERMINATION OF SERVICES
 8 AND COLLECTION OF DELINQUENT CHARGES AS A TAX LIEN UPON PROPERTY OR BY FILING SUIT IN
 9 ANY COURT WITH JURISDICTION; ~~PROVIDING FACTORS FOR DETERMINING IF PROPERTY IS BENEFITED;~~
 10 AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS; CLARIFYING THE AUTHORITY TO
 11 ISSUE REFUNDING BONDS; AMENDING SECTIONS 7-13-2218, 7-13-2274, 7-13-2275, 7-13-2301,
 12 7-13-2321, AND 7-13-2324, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE ~~AND AN~~
 13 APPLICABILITY DATE."

14
 15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
 17 **Section 1.** Section 7-13-2218, MCA, is amended to read:

18 **"7-13-2218. District powers related to water and sewer projects.** Any district incorporated as
 19 provided in this part may:

20 (1) construct, purchase, lease, or otherwise acquire and operate and maintain water rights,
 21 waterworks, sanitary sewerworks, storm sewerworks, canals, conduits, reservoirs, lands, and rights useful
 22 or necessary to store, conserve, supply, produce, convey, or drain water or sewage for purposes beneficial
 23 to the district. Beneficial purposes include but are not limited to flood prevention, flood control, irrigation,
 24 drainage, municipal and industrial water supplies, domestic water supplies, wildlife, recreation, pollution
 25 abatement, livestock water supply, and other similar purposes.

26 (2) if the incorporators of the district are members of a private, nonprofit water association that
 27 was formed under the laws of this state, acquire by eminent domain from that water association any type
 28 of property referred to in this section;

29 (3) store water for the benefit of the district; conserve water for future use; appropriate, acquire,
 30 and conserve water and water rights for the purposes of the district; commence, maintain, intervene in,

1 and compromise, in the name of the district, and assume the costs of any action or proceeding involving
 2 or affecting the ownership or use of waters, water rights, or sewer rights within the district used or useful
 3 for any purpose of the district or a benefit to any land situated in the district;

4 (4) commence, maintain, intervene in, defend, and compromise actions and proceedings to prevent
 5 interference with or diminution of the natural flow of any stream or natural subterranean supply of waters
 6 used or useful for any purpose of the district or a common benefit to the lands within the district or its
 7 inhabitants;

8 (5) commence, maintain, and defend actions and proceedings to prevent any interference with the
 9 waters or rights referred to in this section as may endanger the inhabitants or lands of the district;

10 (6) lease from any person, firm, or public or private corporation, with the privilege of purchase or
 11 otherwise, existing water rights, waterworks, sewerworks, canals, or reservoir systems; and carry on and
 12 maintain them;

13 (7) sell water or the use of water for household or domestic or other similar purposes or sell sewer
 14 service and, whenever there is a surplus of water or sewerworks capacity, sell or otherwise dispose of the
 15 water or sewerworks capacity to municipalities or towns or to consumers located within or outside the
 16 boundaries of the district;

17 (8) retain the services of architects and engineers for designing, preparing a feasibility study for,
 18 and drawing plans and specifications of a water or sewer system for the district, with the cost of these
 19 services apportioned and assigned against properties in the district in accordance with 7-13-2304; and

20 (9) establish, by ordinance or resolution, rules and regulations for the operation, maintenance, use,
 21 and availability of any of its systems or improvements, including but not limited to connection procedures,
 22 service termination, and payment of rates and charges, including penalties and interest charges for
 23 delinquent accounts."

24
 25 **SECTION 2. SECTION 7-13-2274, MCA, IS AMENDED TO READ:**

26 "**7-13-2274. Conduct of business.** (1) All legislative sessions of the board of directors, whether
 27 regular or special, ~~shall~~ must be open to the public. Notice of the sessions must be given and the sessions
 28 must be held in compliance with the requirements of Title 2, chapter 3, parts 1 and 2.

29 (2) A majority of the board ~~shall constitute~~ constitutes a quorum for the transaction of business.

30 (3) The board ~~shall~~ may act only by ordinance or resolution."

1 **SECTION 3. SECTION 7-13-2275, MCA, IS AMENDED TO READ:**

2 **"7-13-2275. Procedure relating to ordinances and resolutions -- rates, fees, and charges**
 3 **established.** (1) The ayes and noes ~~shall~~ **must** be taken upon the passage of all ordinances or resolutions
 4 and entered upon the journal of the proceedings of the board of directors. ~~No~~ **An** ordinance or resolution
 5 ~~shall~~ **may not** be passed or become effective without the affirmative votes of at least a majority of the total
 6 members of the board.

7 (2) The enacting clause of all ordinances passed by the board ~~shall~~ **must** be in these words: "Be
 8 it ordained by the board of directors of district as follows:"

9 (3) All resolutions and ordinances ~~shall~~ **must** be signed by the president of the board and attested
 10 by the secretary.

11 **(4) Prior to the passage or enactment of an ordinance or resolution imposing, establishing,**
 12 **changing, or increasing rates, fees, or charges for services or facilities, the board shall order a public**
 13 **hearing.**

14 **(a) Notice of the public hearing must be published as provided in 7-1-2121. The published notice**
 15 **must contain:**

16 **(i) the date, time, and place of the hearing;**

17 **(ii) a brief statement of the proposed action; and**

18 **(iii) the address and telephone number of a person who may be contacted for further information**
 19 **regarding the hearing.**

20 **(b) The notice must also be mailed to all persons who own property in the district and to all**
 21 **customers of the district at least 7 days and not more than 30 days prior to the public hearing. The mailed**
 22 **notice must contain an estimate of the amount that the property owner or customer will be charged under**
 23 **the proposed ordinance or resolution.**

24 **(c) Any interested person, corporation, or company may be present, represented by counsel, and**
 25 **testify at the hearing.**

26 **(d) The hearing may be continued by the board as necessary. After the public hearing, the board**
 27 **may, by resolution, impose, establish, change, or increase rates, fees, or charges."**

28
 29 **Section 4. Section 7-13-2301, MCA, is amended to read:**

30 **"7-13-2301. Establishment of charges for services -- payment of charges.** (1) The board of

1 directors shall fix all water and sewer rates and shall, through the general manager, collect the sewer
2 charges and the charges for the sale and distribution of water to all users.

3 (2) ~~(a) The board, in the furnishing of water, sewer service, other services, and facilities, shall~~
4 review, at least once every 2 years, and from time to time fix such the rate, fee, toll, rent, or other charge
5 for the services, facilities, and benefits directly or indirectly afforded by the facilities, taking into account
6 services provided and DIRECT benefits received, that as will pay the operating expenses of the district,
7 provide for repairs and depreciation of works owned or operated by it, pay the interest on any bonded debt,
8 and so far as possible, provide a sinking or other fund for the payment of the principal of such debt as it
9 may become due be sufficient in each year to provide income and revenue adequate for:

10 (a) the payment of the reasonable expense of operation and maintenance of the facilities;

11 (b) administration of the district;

12 (c) the payment of principal and interest on any bonded or other indebtedness of the district; and

13 (d) the establishment or maintenance of any required reserves, including reserves needed for
14 expenditures for depreciation and replacement of facilities, as may be determined necessary from time to
15 time by the board or as covenanted in the ordinance or resolution authorizing the outstanding bonds of the
16 district.

17 ~~(b) In addition to charges for the use of facilities of the district, the board may, if the facilities have~~
18 ~~been acquired, constructed, or improved by the use of bonds authorized in accordance with 7-13-2323~~
19 ~~through 7-13-2325, establish and impose charges, including maintenance charges to main service lines,~~
20 ~~for the availability of facilities to properties benefited by the facilities. IN ESTABLISHING AND IMPOSING~~
21 ~~THE FACILITIES CHARGE, THE BOARD MAY USE ANY ONE OR A COMBINATION OF THE METHODS OF~~
22 ~~ASSESSMENT APPLICABLE TO RURAL SPECIAL IMPROVEMENT DISTRICTS AS PROVIDED IN 7-12-2151.~~

23 (3) A person or entity may not use any facility without paying the rate established for the facility.
24 In the event of nonpayment, the board may order the discontinuance of water or sewer service or both to
25 the property and may require that all delinquent charges, interest, penalties, and deposits be paid before
26 restoration of the service.

27 (4) (a) A IF THE BOARD HAS ORDERED DISCONTINUANCE OF SERVICE AS PROVIDED IN
28 SUBSECTION (3) AND THE PERSON OR ENTITY WHO RECEIVED THE SERVICE HAS NOT MADE FULL
29 PAYMENT OF ALL DELINQUENT CHARGES, INTEREST, PENALTIES, AND DEPOSITS, THEN A DISTRICT
30 MAY ELECT TO HAVE ITS DELINQUENT CHARGES FOR WATER OR SEWER SERVICES COLLECTED AS

1 A TAX AGAINST THE PROPERTY BY FOLLOWING THE PROCEDURES OF THIS SUBSECTION (4). If a
 2 charge for services incurred IS DUE AND PAYABLE in a fiscal year AND is not paid by the end of the fiscal
 3 year, the general manager shall, by July 15 of the succeeding fiscal year, give notice to the owners of the
 4 property to which the service was provided. The notice must be in writing and:

5 (i) must specify the charges owed, including any interest and penalty;

6 (ii) must specify that the amount due must be paid by August 15 or it will be levied as a tax against
 7 the property;

8 (iii) must state that the district may institute suit in any court of competent jurisdiction to recover
 9 the amount due; and

10 (iv) may be served on the owner personally or by letter addressed to the post-office address of the
 11 owner as recorded in the county assessor's office.

12 (b) On September 1 of each year, the general manager shall certify and file with the county
 13 assessor a list of all property, including legal descriptions, on which arrearages remain unpaid. The list
 14 must include the amount of each arrearage, including interest and penalty. ~~The UNLESS THE PROPERTY~~
 15 ~~CONTAINS A MOBILE HOME, THE~~ THE county assessor shall assess the amount owed as a tax against
 16 each lot or parcel with an arrearage. ~~IF THE PROPERTY CONTAINS A MOBILE HOME, THE AMOUNT~~
 17 ~~OWED AS A TAX MUST BE ASSESSED AGAINST THE OWNER OF THE MOBILE HOME. IF THE PROPERTY~~
 18 ~~ON WHICH ARREARAGES REMAIN UNPAID CONTAINS A MOBILE HOME, THE AMOUNT OWED MUST~~
 19 ~~BE ASSESSED AS A TAX AGAINST THE OWNER OF THE MOBILE HOME. IF THE MOBILE HOME FOR~~
 20 ~~WHICH ARREARAGES REMAIN UNPAID IS NO LONGER ON THE PROPERTY, THE AMOUNT OWED MUST~~
 21 ~~BE ASSESSED AS A TAX AGAINST THE PROPERTY.~~

22 (5) In addition to collecting ~~assessments~~ DELINQUENT CHARGES in the same manner as a tax, a
 23 district may bring suit in any court of competent jurisdiction to collect amounts due as a debt owed to the
 24 district.

25 ~~(3)(6)~~ Notwithstanding any other section of ~~this part or~~ part 22 or this part or any limitation

26 imposed ~~therein and~~ in part 22 or this part, when the board has applied for and received from the federal

27 government any money for the construction, operation, and maintenance of ~~treatment services and works~~

28 facilities, the board may adopt a system of charges and rates to require that each recipient of treatment

29 ~~works~~ facility services pays its proportionate share of the costs of operation, maintenance, and replacement

30 and to may require industrial users of ~~treatment works~~ facilities to pay the portion of the cost of

1 construction of the ~~treatment works which~~ facilities that is allocable to the treatment of that industrial
 2 user's wastes."

3

4 **Section 5.** Section 7-13-2321, MCA, is amended to read:

5 **"7-13-2321. Procedure to incur bonded indebtedness.** Whenever the board of directors ~~deems~~
 6 considers it necessary for the district to incur a bonded indebtedness, other than for indebtedness to refund
 7 bonded indebtedness as provided for in [section 6 5 7], it shall by a resolution ~~so declare and~~ state the
 8 purpose for ~~which~~ the proposed debt ~~is to be incurred,~~ the land within the district to be benefited ~~thereby,~~
 9 the amount of debt to be incurred, the maximum term for the proposed bonds ~~proposed to be issued shall~~
 10 ~~run~~ before maturity, and the proposition to be submitted to the electors."

11

12 **Section 6.** Section 7-13-2324, MCA, is amended to read:

13 **"7-13-2324. Notice of election on incurring bonded indebtedness.** (1) The board of directors shall
 14 give notice of the holding of the election. The notice ~~shall contain the resolution adopted by the board of~~
 15 ~~directors of the district,~~ must:

16 (a) state the date of the election;

17 (b) state the hours the polls will be open;

18 (c) describe the boundaries of voting precincts, which ~~shall include~~ may include only the lands to

19 be benefited as stated in the resolution, ~~and the location of polling places;~~

20 (d) describe the purpose of the issue, the amount of bonds proposed to be issued, and the term
 21 of years for repayment of the bonds;

22 (e) reference the resolution authorizing the election and state that it is available for public
 23 inspection; and

24 (f) state any other information that the board considers proper.

25 (2) The notice ~~shall~~ must be published as provided in 13-1-108."

26

27 ~~**NEW SECTION. Section 5. Determination of benefit.** (1) Under part 22 of this part, the county~~
 28 ~~commissioners or board of directors of a district may, on the basis of whether the property is benefited by~~
 29 ~~the facilities, determine whether or not to include property in a district, to charge property for the use or~~
 30 ~~availability of services, or to charge property for a particular bonded indebtedness.~~

1 ~~(2) In determining if a property is benefited, the county commissioners or board of directors shall~~
2 ~~consider the following factors:~~

3 ~~(a) whether the property is currently served by the facilities;~~

4 ~~(b) whether the property would be served by the facilities if the owner elected to connect to the~~
5 ~~facilities;~~

6 ~~(c) whether additional facilities are required to allow the property to connect to the facilities;~~

7 ~~(d) whether additional facilities have been authorized or whether plans to authorize the additional~~
8 ~~facilities have been made and whether the additional facilities would be available within the next 3 years;~~

9 ~~(e) the current use of the property;~~

10 ~~(f) the permitted uses of the property under applicable zoning and land use regulations;~~

11 ~~(g) any estimated increase in the market value of the property as a result of the facilities;~~

12 ~~(h) (G) the character and location of the district;~~

13 ~~(i) (H) the character and location of the property;~~

14 ~~(j) (I) whether the property is served by other LIKE facilities of the district or other public~~
15 ~~improvements; and~~

16 ~~(k) (J) any other relevant factors.~~

17
18 ~~NEW SECTION. SECTION 7. DETERMINATION OF BENEFIT. (1) UNDER PART 22 OR THIS PART,~~
19 ~~THE COUNTY COMMISSIONERS OR BOARD OF DIRECTORS OF A DISTRICT MAY, ON THE BASIS OF~~
20 ~~WHETHER THE PROPERTY IS BENEFITED BY THE FACILITIES, DETERMINE WHETHER OR NOT TO~~
21 ~~INCLUDE PROPERTY IN A DISTRICT, TO CHARGE PROPERTY FOR THE USE OR AVAILABILITY OF~~
22 ~~SERVICES, OR TO CHARGE PROPERTY FOR A PARTICULAR BONDED INDEBTEDNESS.~~

23 ~~(2) IN DETERMINING IF A PROPERTY IS BENEFITED, THE COUNTY COMMISSIONERS OR BOARD~~
24 ~~OF DIRECTORS SHALL CONSIDER THE FOLLOWING FACTORS:~~

25 ~~(A) WHETHER THE PROPERTY IS CURRENTLY SERVED BY THE FACILITIES;~~

26 ~~(B) WHETHER THE PROPERTY WOULD BE SERVED BY THE FACILITIES IF THE OWNER ELECTED~~
27 ~~TO CONNECT TO THE FACILITIES;~~

28 ~~(C) WHETHER ADDITIONAL FACILITIES ARE REQUIRED TO ALLOW THE PROPERTY TO CONNECT~~
29 ~~TO THE FACILITIES;~~

30 ~~(D) WHETHER ADDITIONAL FACILITIES HAVE BEEN AUTHORIZED OR PLANS TO AUTHORIZE THE~~

1 ~~ADDITIONAL FACILITIES HAVE BEEN MADE AND WHETHER THE ADDITIONAL FACILITIES WOULD BE~~
 2 ~~AVAILABLE WITHIN THE NEXT 3 YEARS;~~

3 ~~(E) THE CURRENT USE OF THE PROPERTY;~~

4 ~~(F) THE PERMITTED USES OF THE PROPERTY UNDER APPLICABLE ZONING AND LAND USE~~
 5 ~~REGULATIONS;~~

6 ~~(G) ANY ESTIMATED INCREASE IN THE MARKET VALUE OF THE PROPERTY AS A RESULT OF~~
 7 ~~THE FACILITIES;~~

8 ~~(H) THE CHARACTER AND LOCATION OF THE DISTRICT;~~

9 ~~(I) THE CHARACTER AND LOCATION OF THE PROPERTY;~~

10 ~~(J) WHETHER THE PROPERTY IS SERVED BY OTHER FACILITIES OF THE DISTRICT OR OTHER~~
 11 ~~PUBLIC IMPROVEMENTS; AND~~

12 ~~(K) ANY OTHER RELEVANT FACTORS.~~

13
 14 **NEW SECTION. Section 7. Issuance of general obligation bonds.** (1) In addition to the powers
 15 granted to a district in this part to finance facilities and improvements, a district may issue general
 16 obligation bonds for a term of up to ~~30~~ 40 years to:

17 (a) provide funds to pay part or all of the cost of acquisition, construction, or improvement of
 18 facilities; or

19 (b) refund any bonds issued for the acquisition, construction, or improvement of facilities.

20 (2) General obligation bonds issued pursuant to this section must be authorized, sold, and issued,
 21 with provisions for their payment, in the manner and subject to the conditions prescribed for bonds of
 22 school districts in Title 20, chapter 9, part 4, except to the extent that those conditions conflict with the
 23 express provisions of part 22 or this part.

24 (3) Nothing in this section prohibits a district from imposing rates or other charges for the use or
 25 availability of facilities that have been financed in whole or part by general obligation bonds under this
 26 section if the revenue from the rates or charges is used to abate taxes that have been levied to pay the
 27 principal or interest on the general obligation bonds or is used to pay the principal or interest on other
 28 bonded indebtedness of the district. ~~PRIOR TO IMPOSING RATES OR CHARGES FOR FACILITIES UNDER~~

29 ~~THIS SUBSECTION, A NOTICE MUST BE PUBLISHED AS PROVIDED IN 7-1-2121 AND A HEARING ON THE~~
 30 ~~IMPOSITION OF THE RATES OR CHARGES MUST BE HELD AT A TIME AND PLACE NOTED IN THE~~

1 NOTICE.

2

3 NEW SECTION. Section 8. Issuance of refunding bonds without election. (1) (a) District refunding
4 bonds, issued to provide money to refund outstanding bonded indebtedness, may be issued without a vote
5 of the electorate. In order to issue refunding bonds, the board of directors shall adopt a resolution setting
6 forth the facts regarding the outstanding bonds that are to be redeemed, the reasons for issuing the
7 refunding bonds, and the terms and details of the refunding bond issue.

8 (b) After adopting a resolution, the board of directors may sell the bonds at times and in a manner
9 considered to be in the public interest.

10 (2) (a) Refunding bonds may be issued prior to the maturity or redemption date of the outstanding
11 bonds they are to refund. The proceeds of the refunding bonds, less any accrued interest or premium
12 received upon the sale of the refunding bonds or amounts to be used for the cost of issuance or
13 establishing reserves for the refunding bonds, must be deposited with other funds appropriated for payment
14 of the outstanding bonds in escrow with a suitable banking institution in or out of the state.

15 (b) Deposited funds must be invested in securities that are general obligations of the United States
16 or in securities for which the principal and interest are guaranteed by the United States. The securities
17 must be payable on the dates required and bear interest at a rate sufficient, with any cash retained in the
18 escrow account, to pay, when due, accrued interest on each refunded bond until its maturity or redemption
19 date if called for redemption. The securities must also be sufficient to pay the principal of the bond at
20 maturity or upon the redemption date and to pay any redemption premium.

21 (c) The escrow account must be irrevocably appropriated to the payment of principal, interest, and
22 redemption premium, if any, of the refunded bonds.

23 (d) A district may pay for reasonable costs of issuing the refunding bonds and maintaining the
24 escrow account. Alternatively, a district may issue crossover refunding bonds as provided in Title 17,
25 chapter 5, part 21.

26

27 NEW SECTION. Section 9. Codification instruction. [~~Sections 5 through 7 5 AND 6 7 THROUGH~~
28 ~~9 AND 8~~] are intended to be codified as an integral part of Title 7, chapter 13, part 23, and the provisions
29 of Title 7, chapter 13, part 23, apply to [~~sections 5 through 7 5 AND 6 7 THROUGH 9 AND 8~~].

30

